

**UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

IN RE: PAUL HRYWNAK, JR.

Debtor(s)

CHAPTER 13

JACK N. ZAHAROPOULOS
CHAPTER 13 TRUSTEE
Movant

vs.

PAUL HRYWNAK, JR.

CASE NO: 5-23-02348-MJC

Respondent(s)

TRUSTEE'S MOTION TO DISMISS CASE WITH PREJUDICE

AND NOW, on December 18, 2023, Jack N. Zaharopoulos, Standing Chapter 13 Trustee for the Middle District of Pennsylvania, moves this Honorable Court for dismissal of the above-captioned Chapter 13 bankruptcy case, with prejudice, in accordance with § 1307(c)(1) for unreasonable delay that is prejudicial to creditors and § 1307(c)(4) for failure to commence making timely payments under § 1326. In support of this Motion, the Trustee avers as follows:

1. In addition to the petition filed in this case, Debtor filed petitions docketed to the following cases:

Case Number: 5-17-01134-JJT

Counsel: TULLIO, DeLUCA, ESQUIRE

Filing Date: 03/23/2017

Date Dismissed: 07/24/17

Total Payments: \$0.00

Chapter: 13

Result: Dismissed for Failure to file information

Case Number: 5-18-00484-RNO

Counsel: TULLIO DeLUCA, ESQUIRE

Filing Date: 02/05/18

Date Dismissed: 01/22/19

Total Payments: \$981.00

Chapter: 13

Result: Dismissed for Material Default

Case Number: 5-19-04435-RNO

Counsel: JOHN FISHER, ESQUIRE

Filing Date: 10/11/19

Date Dismissed: 09/03/20

Total Payments: \$0.00

Chapter: 13

Result: Dismissed for Material Default

Case Number: 5-22-00211-MJC

Counsel: J. ZAC CHRISTMAN, ESQUIRE

Filing Date: 02/03/22

Date Dismissed: 04/25/22

Total Payments: \$0.00

Chapter: 13

Result: Dismissed for Material Default

Case Number: 5-22-01083-MJC

Counsel: J. ZAC CHRISTMAN, ESQUIRE

Filing Date: 06/09/22

Date Dismissed: 02/06/23

Total Payments: \$0.00

Chapter: 13

Result: Dismissed for Unconfirmable Plan

2. The Court dismissed the debtor's 2022 case with prejudice, imposing a 6-month bar on refiling.
3. The Debtor filed the present case on October 13, 2023.
4. The originally scheduled § 341 Meeting of Creditors was to be held on November 13, 2023, at which time the Debtor failed to appear.
5. The Trustee rescheduled the Meeting to December 18, 2023 and Debtor's counsel appeared on this rescheduled date. The Debtor indicated to his counsel (via telephone while the Meeting was supposed to take place) that he was having difficulties connecting to the Meeting via Zoom. Since it was apparent that the Debtor had not filed all his tax returns as required by § 1308, the Trustee indicated that he would hold open the Meeting of Creditor pursuant to § 1308(b), but that in the meantime, he would be filing a Motion to Dismiss for the other deficiencies in this case.¹
6. Counsel for the Pennsylvania Department of Revenue appeared at both Meetings of Creditors.
7. Neither Meeting could take place, not only because the Debtor did not appear at either, but because Debtor also failed to provide to the Trustee a copy of his identification and proof of his social security number prior to the Meeting.
8. Since a Meeting of Creditors has not yet occurred, the Trustee moves to dismiss this case pursuant to § 1307(c)(1). The Debtor's actions thus far have caused delay that is prejudicial to creditors.
9. Additionally, since the Trustee has not yet received a plan payment, the Trustee also moves to dismiss this case pursuant to § 1307(c)(4).

¹ The IRS claim, as amended on November 1, 2023, indicates that all returns for the years 2019 through 2022 are not filed. The Pennsylvania Department of Revenue's Objection to Confirmation indicates that returns are outstanding for the years 2021 and 2022.

10. Movant believes and avers that, under the totality of the circumstances, the Debtor has demonstrated substantial abuse and a lack of good faith in the filing of this case in light of his five (5) prior Chapter 13 petitions that this Court dismissed prior to completion.

WHEREFORE, Movant requests this Honorable Court to:

1. Dismiss this case in accordance with § 1307(c) and,
2. Dismiss this case with prejudice with regard to debtor(s) filing a subsequent petition under the Bankruptcy Code in this district without prior leave of this Court for a period of 365 days from the entry of this dismissal.

Respectfully submitted,

Jack N. Zaharopoulos, Esq.

ID: 330029

Standing Chapter 13 Trustee

8125 Adams Drive, Suite A

Hummelstown, PA 17036

Phone: (717) 566-6097

email: info@pamd13trustee.com

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NOTICE

NOTICE IS HEREBY GIVEN, that Jack N. Zaharopoulos, Standing Chapter 13 Trustee for the Middle District of Pennsylvania, has filed a Motion to Dismiss with Prejudice.

YOU ARE HEREBY NOTICED that, if you file and serve an objection/response by January 8, 2024, a hearing will be held on February 1, 2024, at 10:00 a.m., at:

U.S. Bankruptcy Court
Max Rosenn U.S. Courthouse
197 S. Main Street
Wilkes Barre, PA 18701

If you do not file an objection/response by January 8, 2024, the Court will deem the Motion unopposed and proceed to consider the Motion without further notice or hearing, and may grant the relief request.

Dated: December 18, 2023

Respectfully submitted,

/s/ Jack N. Zaharopoulos, Esq.

ID: 330029

Standing Chapter 13 Trustee

8125 Adams Dr, Suite A

Hummelstown, PA 17036

Phone: (717) 566-6097

Email: info@pamd13trustee.com

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PAUL HRYWNAK

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JACK N. ZAHAROPOULOS
CHAPTER 13 TRUSTEE
Movant

CERTIFICATE OF SERVICE

I certify that I am more than 18 years of age and that on December 18, 2023, I served a copy of this Motion to Dismiss with Prejudice, Notice and Proposed Order on the following parties by 1st Class mail from Hummelstown, PA, unless served electronically.

Served electronically

J ZAC CHRISTMAN ESQUIRE
J ZAC CHRISTMAN LAW
556 MAIN STREET, SUITE 12
STROUDSBURG, PA 18360-

Served Electronically

Office of the United Trustee
1501 NORTH 6TH STREET
BOX 302
HARRISBURG, PA 17102

Served by 1ST class mail

PAUL HRYWNAK, JR.
14 O'HARA ROAD
MOSCOW, PA 18444

I certify under penalty of perjury that the foregoing is true and correct.

Date: December 18, 2023

/s/Matt Arcuri
Jack N. Zaharopoulos, Trustee
Suite A, 8125 Adams Dr.
Hummelstown, PA 17036
Phone: (717) 566-6097
email: info@pamd13trustee.com

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ORDER DISMISSING CASE WITH PREJUDICE

Upon consideration of the Trustee's Motion to Dismiss with Prejudice, it is hereby ORDERED that the above-captioned bankruptcy be and hereby is DISMISSED WITH PREJUDICE. Debtor is hereby BARRED from filing in this district for a period of 365 days from the date of this order without prior court order.